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中国注册税务师制度发展研究

厦门大学

博士学位论文

中国注册税务师制度发展研究  
——基于制度、历史、比较的分析

Research on the Development of China's Certified Tax Agent System  
- An Analysis Based on System, History and Comparison

郑远菊

郑远菊

指导教师 陈振明 教授

指导教师姓名: 陈 振 明 教 授

专 业 名 称: 行 政 管 理

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## 内容摘要

20 世纪 80 年代初,随着我国税制改革的开展,我国的税收从单一税制改变为复合税制,纳税难度相应加大。为帮助纳税人准确纳税,一些地区的离退休税务干部组建了税务咨询机构,为纳税人解答税法方面的问题,形成税务代理的雏形。经过 20 多年的发展,目前,中国具有注册税务师资格的人数突破 7 万人,从业人员超过了 10 万人,注册税务师已成为一支重要的协税护税力量,较好地降低纳税成本,提高纳税效率。

由于我国注册税务师制度起步晚,制度发展还很不规范,主要表现在服务质量不高、市场占有率低等问题上。2005 年 12 月,国家税务总局出台了《注册税务师管理暂行办法》,将注册税务师可做业务拓展为涉税鉴证业务和涉税服务业务两大类。新增了涉税鉴证业务,使注册税务师的角色发生了变化,从原来为纳税人服务,变成了既为纳税人服务又为税务机关服务;既为企业提供服务,又担负对企业的税务审计任务。税务机关的角色也发生了变化,从原先的监管者,转变为既是监管者,又是鉴证服务的接受者。角色的重叠,影响了注册税务师执业的独立性,致使了行业不规范问题更为突出。部分注册税务师在执业中丧失中立立场,出具的鉴证报告可信度低,对国家的税收利益造成了影响,注册税务师的执业信誉招到了怀疑。角色的重叠,也影响了税务机关独立、公正地对注册税务师行业进行监督,甚至部分税务人员利用职权,进行“设租”,谋取私利。

建立和完善公共财政体制是当前我国公共部门尤其是政府改革的一项重要内容。注册税务师制度是税收征管制度的一个组成部分,如何规范注册税务师制度,充分发挥注册税务师协税护税的功能,是公共管理研究的一个课题,对于改善税收管理、优化纳税服务、提高纳税遵从有重大意义。

本论文顺着实证研究提出问题、分析问题、解决问题的思路,以公共管理理论为核心,用新公共管理、行业组织管理、制度变迁、监管理论搭建研究框架,辅之以行政法、公共财政、公共服务、税收政策等理论知识,结合税收工作实践,从制度、历史、比较研究的视角,对我国注册税务师制度进行研究。

论文由以下七个部分组成:

第一章是导论，对论文选题的意义、国内外研究情况、论文思路及论文理论框架进行介绍，并对论文中的“税务代理”、“注册税务师”、“注册税务师制度”、“鉴证”等几个核心概念进行了界定。

第二章对中国注册税务师制度形成及发展历史进行了回顾。通过对我国注册税务师制度的萌芽、形成、发展阶段的阐述，交待了我国注册税务师制度产生的背景，总结了我国注册税务师制度历史变迁的强制性、供给主导型特点。

第三章对中国注册税务师制度的实践绩效进行评估。注册税务师行业在保证持续稳定地组织国家财政收入、维护国家税收法律法规的正确贯彻实施、推动我国税收征管改革的深化、促进税收服务体系的建立、保障征纳双方的合法权益等方面都发挥了巨大的积极的作用。但是目前该行业也存在着执业质量较差、市场竞争秩序比较混乱、行业发展规模较小等问题，由此带来了国家税款流失、腐败等负面影响。深入分析问题产生机制，市场需求不足、制度不完善是主要原因。

第四章对中国注册税务师制度的供、需进行了分析。在经济人假设的前提下，根据戴维·菲尼的制度供需模型，从国家、征税人、纳税人、注册税务师等层面，寻找影响注册税务师制度供需的制约因素，并深入剖析制度供需背后的利益机制。在此基础上，得出中国注册税务师制度处于供求不均衡状态的结论。

第五章对中国注册税务师行业监管制度体系进行分析。从法律、政府、行业三个层面对行业监管展开分析，得出：涉及注册税务师行业的法律、法规立法层次低，形成注册税务师行业合法性争议；行政监管机构独立性不足，造成监管能力欠缺；而作为行业自律组织的协会，官办色彩浓厚，缺乏工作热情；事务所自身定位不准，执业道德低下。种种因素致使对注册税务师的执业质量无法有效保证，虚假的鉴证报告屡见不鲜。本章最后通过构建一个博弈模型，对虚假鉴证报告的出具过程进行了描述。

第六章介绍国外注册税务师制度的情况并提出借鉴价值。不少经济发达国家都较早地推行了注册税务师制度，日本的税理士制度以其悠久的历史、完善的法规著称；美国的税务代理因其在社会生活中无以比拟的重要程度兴盛至今；韩国、德国等国家也都根据自己的国情制定了注册税务师制度。尽管各国的注册税务师制度实行时间、具体规定各有差异，但其完备的法律体系、健全的管理机制、良好的税制环境等都值得我国借鉴。

第七章在前面几章理论与实证分析的基础上,针对注册税务师制度存在的有效需要不足及执业质量不高等问题,从建立健全行业制度体系、完善政府监管与行业自律相结合的监管模式、推行涉税服务的合同外包、改善注册税务师执业环境四个方面入手,提出了完善注册税务师制度的措施。重点着墨于构建相对独立的监管机构与论述推行税务机关鉴证业务合同外包上。

结语部分对整项研究进行了总结,并指明了该研究的局限性与有待深入研究的问题。

**关键词:** 税收管理; 注册税务师; 制度



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## Abstract

In the early 1980s, with the launch of China's taxation system reform, China's taxation was transformed from a singular taxation system into a composite one, which increased the difficulty involved in paying taxes. In an effort to help taxpayers to fulfill their tax obligations properly, retired tax officials in some cities formed taxation consulting institutes providing solutions to taxpayers' taxation issues, which eventually led to the formation of taxation agency. Through more than two decades of development, at present, China is home to over 70,000 certified tax agents and more than 100,000 practitioners. Certified tax agents have become an important force in facilitating and safeguarding taxation, effectively reducing taxation costs and improving taxation efficiency.

As China's certified tax agent system was a later comer, the system development is far from standardized, which is manifested in low service quality and low market shares. In December 2005, the State Administration of Taxation released the *Interim Provision on the Administration of Certified Tax Agents*, expanding the scope of business permitted for certified tax agents to two realms: taxation-related accreditations and taxation-related services. The addition of taxation-related accreditations to the scope of business has transformed the roles of certified tax agents - they were no longer serving taxpayers only; they are now serving not only taxpayers but also taxation authorities; they are providing services for enterprises and performing enterprises' tax audits. The role of taxation authorities has changed as well, transforming from a regulator to a regulator and receiver of accreditation services. The overlapping of the roles have seriously undermined the independence of the practice of certified tax agents, making industry irregularity a more prominent issue. Some certified tax agents have lost their neutrality in

practicing their profession and issued accreditation reports with low reliability, thereby affecting the state's tax interests and casting doubt on the professional credibility of certified tax agents. The overlapping of roles have also affected taxation authorities' ability to regulate the certified tax agent industry independently and fairly; some taxation officers even abuse their power for personal gains.

Building and improving the public finance system is a vital aspect of the reform of China's public sector, especially the government. The certified tax agent system is an integral part of the tax collection and administration system. How to regulate the certified tax agent system and enable certified tax agents to play a full role in facilitating and safeguarding taxation is a topic of interest in public administration research, holding great significance for improving tax administration, optimizing taxation services, and enhancing tax law compliance.

This paper identifies, analyzes and resolves the issued from the perspective of empirical research. It is centered on public administration theory and utilizes new public administration, intermediary organization management, system transformation and regulatory theories to build a research framework to examine China's certified tax agent system in terms of system, history and comparative research, supported by theoretical knowledge on the administrative law, public finance, public services and taxation polices and taking into consideration actual taxation work.

This paper consists of the following seven sections:

Chapter I, the Introduction, gives an account of the significance of the topic selected for this paper, the status of domestic and overseas research, the line of thoughts behind this paper, and the theoretic framework of this paper. It also defines the core concepts in this paper, including "taxation agency", "certified tax agent", "certified tax agent system", and "accreditation".

Chapter II reviews the formation and development history of China's certified tax agent system, provides a description of the background of the formation of China's certified tax agent system, and sums up the compulsory and supply-dominated characteristics of the historic evolution of China's certified tax agent system.

Chapter III provides an assessment of the practical performance of China's certified tax agent system. Certified tax agents play a significantly positive role in ensuring a consistent and steady source of national financial revenues, safeguarding the proper implementation of national tax laws and regulations, deepening the reform of China's tax collection and administration, and promoting the building of the taxation service system, and protecting the legitimate rights and interests of tax collectors and taxpayers. However, at present, this industry suffers from poor practicing quality, chaotic market competition order, and limited scale of industry development, which have led to negative consequences, such as lost national taxes and corruption. An in-depth analysis of the cause of the problems shows that inadequate market demand and lax regulatory system are mostly responsible for the problems.

Chapter IV analyzes the supply of and demand for certified tax agents in China. Under the precondition of the Hypothesis of Economic Man, this chapter uses David Feeny's system supply and demand model to identify the restrictive factors that affect the supply of and demand for certified tax agents from the perspectives of state, tax collector, taxpayer, and certified tax agent, and investigates the interest mechanism behind system supply and demand. On this basis, this chapter derives the conclusion that China's certified tax agent system remains in an unbalanced state of supply and demand.

Chapter V probes China's regulatory system with regard to certified tax agents. It analyzes industry regulation in terms of law, government

and industry and draws the conclusion that legislation concerning the certified tax agent industry is on a low level, leading to a controversy on the legality of the certified tax agent industry; administrative and regulatory authorities are not sufficiently independent, leading to inadequate regulatory abilities; associations, as the industry's self-discipline organizations, exhibit strong characteristics of governmental operations, lacking enthusiasm about work; and agencies are precisely positioned and have low professional ethics. With the various factors, the quality of practice by certified tax agents cannot be effectively guaranteed and false accreditation reports are not uncommon. At last, this chapter builds a game model to describe the process of how false accreditation reports are issued.

Chapter VI presents the overseas certified tax agent system and points out its merits for reference. Many economically developed nations have long been implementing the certified tax agent system; for example, Japan's tax handling agent system is noted for its long history and efficient regulations; the US tax agencies are prospering as a result of their indispensable role in social life; South Korea, Germany and many other countries have built a certified tax agent system that befits their respective national conditions. Despite the differences of implementation times and specific provisions in certified tax agent systems in different countries, their complete legal system, sound administration mechanism and strong taxation system environment have merits of reference for China.

Chapter VII, on the basis of theories and empirical analyses in the preceding chapters, proposes measures for improving the certified tax agent system in response to exiting problems, such as insufficient effective demand and low quality of practice. The measures envisions building and improving the entire industry system, enhancing the regulatory model of government regulation combined with industry

self-discipline, promoting contract outsourcing of taxation related services, and boosting the practicing environment for certified tax agents. This particular chapter is focused on how to a relatively independent regulatory institution and elaborates on the promotion of contract outsourcing of the accreditation business of taxation authorities.

The Conclusions part of this paper summaries the research and points out its limitations and issues requiring further studies.

**Keywords:** Taxation Administration; Certified Tax Agent; System

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